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8                   UNITED STATES DISTRICT COURT  
9                   WESTERN DISTRICT OF WASHINGTON  
10                  AT TACOMA

11 KENNETH SCOTT NEPRAS,

12                  Plaintiff,

13                  v.

14 MARY ROBNETT, et al.,

15                  Defendants.

CASE NO. 3:25-cv-05204-JLR-DWC

ORDER GRANTING EXTENSION  
AND TO SHOW CAUSE

16 This prisoner civil rights action has been referred to United States Magistrate Judge  
17 David W. Christel. Plaintiff Kenneth Scott Nephras, proceeding *pro se*, initiated this action on  
18 March 12, 2025, by filing an incomplete application to proceed *in forma pauperis* (“IFP”) and a  
19 proposed civil rights complaint. Dkts. 1, 1-1. Plaintiff requests additional time to complete his  
IFP application by filing a certified copy of his prisoner trust account statement. Dkt. 3.  
20 Plaintiff’s request for an extension of time to complete his IFP application is granted. However,  
21 if he intends to proceed in this action, Plaintiff must also show cause why his proposed  
complaint should not be dismissed as frivolous and for failure to state a claim.  
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## I. BACKGROUND

Plaintiff, an inmate currently confined at Pierce County Jail, filed this action challenging his pretrial confinement pursuant to an ongoing state court prosecution. Dkt. 1-1. Plaintiff alleges he is a “Moorish American National” who is being detained illegally and asserts various claims including “slanderous denationalization,” kidnapping and ransom, human trafficking, warrantless arrest, and a violation of due process. *Id.* at 4–8. Plaintiff seeks immediate release and \$7 million in damages. *Id.* at 9.

## **II. MOTION FOR EXTENSION (DKT. 3)**

In support of his request for an extension of time to complete his IFP application, Plaintiff states he has attempted to obtain a certified copy of his prison trust account statement unsuccessfully for approximately six months. Dkt. 3 at 1. Given Plaintiff's reported difficulty in obtaining the required documents, his motion for an extension of time (Dkt. 3) is granted. Plaintiff may complete his IFP application by either (1) filing a certified copy of his prison trust account statement or (2) filing a sworn declaration detailing his efforts to obtain a copy of his prison trust account statement and attesting to the current balance in that account. Alternatively, Plaintiff may cure his initial filing deficiencies by paying the \$405.00 filing fee. The new deadline for Plaintiff to cure his initial filing deficiencies by either completing his IFP application or paying the filing fee is May 12, 2025. Failure to accomplish one of those tasks on or before the stated deadline will result in a recommendation this action be dismissed.

### III. SCREENING STANDARD

Under the Prison Litigation Reform Act of 1995 (“PLRA”), the Court is required to screen complaints brought by prisoners seeking relief against a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must “dismiss the complaint, or any portion of the complaint, if the complaint: (1) is frivolous, malicious, or fails to

1 state a claim upon which relief may be granted; or (2) seeks monetary relief from a defendant  
 2 who is immune from such relief.” 28 U.S.C. § 1915A(b); *see* 28 U.S.C. § 1915(e)(2); *Barren v.*  
 3 *Harrington*, 152 F.3d 1193 (9th Cir. 1998). Dismissal on these grounds counts as a “strike”  
 4 under 28 U.S.C. § 1915(g).

5 To sustain a 42 U.S.C. § 1983 claim, a plaintiff must show that he suffered a violation of  
 6 rights protected by the Constitution or created by federal statute, and that the violation was  
 7 proximately caused by a person acting under color of state or federal law. *West v. Atkins*, 487  
 8 U.S. 42, 48 (1988); *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). A plaintiff must  
 9 provide more than conclusory allegations; he must set forth specific, plausible facts to support  
 10 his claims. *Ashcroft v. Iqbal*, 556 U.S. 662, 678–83 (2009).

11 After informing a *pro se* litigant of any pleading deficiencies, a court must generally  
 12 grant leave to file an amended complaint if there is a possibility the pleading deficiencies may be  
 13 cured through amendment. *Ferdik v. Bonzelet*, 963 F.2d 1258, 1261 (9th Cir. 1992); *see also*  
 14 *Akhtar v. Mesa*, 698 F.3d 1202, 1212 (9th Cir. 2012) (“A district court should not dismiss a *pro*  
 15 *se* complaint without leave to amend unless ‘it is absolutely clear that the deficiencies of the  
 16 complaint could not be cured by amendment.’”) (quoting *Schucker v. Rockwood*, 846 F.2d 1202,  
 17 1203–04 (9th Cir. 1988)). However, if the claims put forth in the complaint lack any arguable  
 18 substance in law or fact, then the complaint must be dismissed. *See Neitzke v. Williams*, 490 U.S.  
 19 319, 327 (1989).

#### 20 IV. DISCUSSION

21 Upon review, the Court finds the proposed complaint is deficient and subject to dismissal  
 22 because it is (A) premised on a frivolous legal theory, (B) requests damages from immune  
 23 defendants, (C) seeks federal interference in ongoing state criminal proceedings, and (D)

1 requests relief not available under 42 U.S.C. § 1983. As such, Plaintiff must show cause why this  
 2 action should not be dismissed as frivolous and for failure to state a claim.

3 **A. Frivolous Legal Theory**

4 First, Plaintiff's proposed complaint is deficient because his claims are based on a  
 5 frivolous legal theory. The PLRA requires dismissal of any frivolous or malicious claims raised  
 6 in prisoner civil rights actions. 28 U.S.C. §§ 1915A(a), 1915(e)(2)(B). Claims properly dismissed  
 7 as frivolous under the PLRA are "those claims whose factual contentions are clearly baseless"  
 8 and "claims describing fantastic or delusional scenarios." *Neitzke*, 490 U.S. at 327. Determining  
 9 the frivolousness of a claim is a matter of discretion. *See Denton v. Hernandez*, 504 U.S. 25, 33  
 10 (1992).

11 Each claim raised in the proposed complaint is based on Plaintiff's theory that, as a  
 12 "Moorish American National," he has an "absolute right to self govern" and is not subject to the  
 13 laws or jurisdiction of Washington state. Dkt. 1-1 at 4–8 (asserting he is "not under these  
 14 people's jurisdiction whatsoever" and calling for an investigation and "shutdown" of  
 15 "people...impersonating real Judges/public officials" with "no respect for Law, People, or The  
 16 Rights of the People"); *see also id.* at 10–14 (Plaintiff's declaration further describing his  
 17 Moorish nationality and sovereign citizenship). Similar claims based on a purported right to self-  
 18 govern and sovereign-citizen ideologies are routinely dismissed as frivolous by federal courts.  
 19 *See United States v. Ward*, 182 F.3d 930, at \*2 (9th Cir. 1999) (noting contentions based on  
 20 sovereign-citizen arguments are "frivolous" and subject to summary dismissal) (collecting  
 21 cases); *United States v. Coleman*, 871 F.3d 470, 476 (6th Cir. 2017) (rejecting frivolous claim  
 22 similar to the "meritless rhetoric frequently espoused by tax protesters, sovereign citizens, and  
 23 self-proclaimed Moorish-Americans."); *U.S. v. Benabe*, 654 F.3d 753, 761–67 (7th Cir. 2011)  
 24 (rejecting sovereign-citizen claims and noting claims based on the ideology are "frivolous,

1 irrational, or unintelligible") (collecting cases); *Trevino v. Florida*, 687 Fed. App'x 861, 862  
 2 (11th Cir. 2017) (affirming dismissal of sovereign-citizen complaint as frivolous under §  
 3 1915A); *Bey v. Dimon*, No. 19-CV-07122-PJH, 2020 WL 999548, at \*2 (N.D. Cal. Mar. 2, 2020)  
 4 (noting that "courts reject any argument that one's status as a Moor makes him or her a sovereign  
 5 citizen who is immune from otherwise generally applicable law") (collecting cases); *Bey v.*  
 6 *Peltier*, No. 17-cv-2552-FMO (KS), 2018 WL 1858189, at \*3 (C.D. Cal. Jan. 25, 2018), *report*  
 7 *and recommendation adopted*, 2018 WL 851291 (C.D. Cal. Feb. 12, 2018) ("Because all of  
 8 Plaintiff's claims stem from her frivolous assertions regarding her sovereign status and  
 9 amendment would therefore be futile, the Complaint must be dismissed with prejudice.").  
 10 Indeed, the Ninth Circuit has long recognized that "advancement of such utterly meritless  
 11 [sovereign-citizen] arguments is now the basis for serious sanctions imposed on civil litigants  
 12 who raise them." *See also U.S. v. Studley*, 783 F.2d 934, 937 n.3 (9th Cir. 1986). Because  
 13 Plaintiff's claims are based on a frivolous legal theory, he must show cause why this action  
 14 should not be dismissed.

15 **B. Prosecutorial Immunity**

16 Even if Plaintiff's claims were based on a nonfrivolous legal theory, his proposed  
 17 complaint is deficient because each of the named defendants is shielded by prosecutorial  
 18 immunity. Prosecutors are entitled to absolute immunity from liability for damages under §  
 19 1983. *Imbler v. Pachtman*, 424 U.S. 409, 427 (1976). Prosecutorial immunity protects a  
 20 prosecutor who "acts within his or her authority and in a quasi-judicial capacity." *Asheleman v.*  
 21 *Pope*, 793 F.2d 1072, 1076 (9th Cir. 1986) (citing *Imbler*, 424 U.S. at 430–31). "Such immunity  
 22 applies even if it leaves 'the genuinely wronged defendant without civil redress against a  
 23 prosecutor whose malicious or dishonest action deprives him of liberty.'" *Id.* (quoting *Imbler*,  
 24 424 U.S. at 427).

1 Plaintiff names the following Pierce County Prosecutors as defendants and alleges they  
 2 violated his rights in various ways during the course of his ongoing state court prosecution: Mary  
 3 Robnett, Loren Halshom, and Telesita Tamez. Dkt. 1-1 at 3, 4–8. Plaintiff's allegations against  
 4 each defendant relate directly to their traditional prosecutorial functions, and the only remedy  
 5 Plaintiff seeks that is available in a § 1983 action is monetary damages. *See Sect. D below.*  
 6 Because Defendants Robnett, Halshom, and Tamez are absolutely immune from damages claims  
 7 regarding their performance traditional prosecutorial functions, Plaintiff fails to state a claim  
 8 against the defendants and must show cause why this action should not be dismissed.

9 **C. *Younger Abstention***

10 Plaintiff's proposed complaint is also deficient because it would require federal  
 11 interference in ongoing state criminal proceedings, which is barred by the *Younger* abstention  
 12 doctrine. Generally, the federal courts will not intervene in a pending state court proceedings  
 13 absent extraordinary circumstances where the danger of irreparable harm is both great and  
 14 immediate. *See Younger v. Harris*, 401 U.S. 37 (1971). The *Younger* abstention doctrine requires  
 15 a federal court to abstain from interference with pending state judicial proceedings when: “(1)  
 16 there is ‘an ongoing state judicial proceeding’; (2) the proceeding ‘implicate[s] important state  
 17 interests’; (3) there is ‘an adequate opportunity in the state proceedings to raise constitutional  
 18 challenges’; and (4) the requested relief ‘seek[s] to enjoin’ or has ‘the practical effect of  
 19 enjoining’ the ongoing state judicial proceeding.” *Arevalo v. Hennessy*, 882 F.3d 763, 765 (9th  
 20 Cir. 2018) (quoting *ReadyLink Healthcare, Inc. v. State Comp. Ins. Fund*, 754 F.3d 754, 758 (9th  
 21 Cir. 2014)). Where these factors are met, federal court must abstain unless there is “a showing of  
 22 bad faith, harassment, or some other extraordinary circumstance that would make abstention  
 23 inappropriate.” *Arevalo v. Hennessy*, 882 F.3d 763, 766 (9th Cir. 2018).

1 All the *Younger* criteria are satisfied here. First, Plaintiff is a pretrial detainee with an  
 2 ongoing criminal prosecution in Washington State courts. Second, as these proceedings involve a  
 3 state criminal prosecution, they implicate important state interests. *Younger*, 401 U.S. at 43–44;  
 4 *Hansel v. Town Ct. for Town of Springfield, N.Y.*, 56 F.3d 391, 393 (2d Cir. 1995) (“[I]t is  
 5 axiomatic that a state’s interest in the administration of criminal justice within its borders is an  
 6 important one”). Third, Plaintiff does not plausibly allege he has been denied an adequate  
 7 opportunity to address the issues he seeks to raise here in state court. Fourth, Plaintiff seeks an  
 8 order declaring his pretrial confinement unlawful and requiring his immediate release. Dkt. 1-1  
 9 at 9. If this Court were to conclude that Plaintiff was entitled to such relief, this would have the  
 10 practical effect of enjoining his ongoing state court proceedings.

11 Accordingly, *Younger* abstention applies in this case, and Plaintiff must therefore show  
 12 cause why this action is not subject to dismissal.

13 **D. Habeas v. Section 1983**

14 Finally, Plaintiff’s proposed complaint is deficient because he seeks relief not available  
 15 under 42 U.S.C. § 1983. Pretrial detainees may bring an action under § 1983 for “constitutional  
 16 questions regarding the . . . circumstances of [his] confinement[.]” See *Trueblood v. Wash. State*  
 17 *Dep’t of Soc. & Health Servs.*, 822 F.3d 1037, 1043 (9th Cir. 2016) (quoting *Or. Advocacy Ctr.*  
 18 *v. Mink*, 322 F.3d 1101, 1120 (9th Cir. 2003)). A prisoner who seeks monetary damages because  
 19 of an alleged violation of constitutional rights must file a civil rights action pursuant to § 1983.  
 20 See *Heck v. Humphrey*, 512 U.S. 477, 482–83 (1994); see also *Preiser v. Rodriguez*, 411 U.S.  
 21 475, 494 (1973) (“If a state prisoner is seeking damages, he is attacking something other than the  
 22 fact or length of his confinement, and he is seeking something other than immediate or more  
 23 speedy release—the traditional purpose of habeas corpus.”). Importantly, however, “when a state  
 24 prisoner is challenging the very fact or duration of [the prisoner’s] physical imprisonment, and

1 the relief [the prisoner] seeks is a determination that [the prisoner] is entitled to immediate  
2 release or a speedier release from that imprisonment, [the prisoner's] sole remedy is a writ of  
3 habeas corpus.” *Preiser*, 411 U.S. at 500.

4 Here, Plaintiff seeks immediate release from pretrial detention, which is not an available  
5 remedy in § 1983 actions. Dkt. 1-1 at 9. Although Plaintiff also seeks monetary damages, his  
6 claims challenge the very fact of his pretrial detention, not the conditions of that detention.  
7 Therefore, even if Plaintiff could identify a non-frivolous legal theory to challenge the validity of  
8 his pretrial detention, the proper mechanism for raising such claims is by filing a federal habeas  
9 petition pursuant to 28 U.S.C. § 2241, not a prisoner civil rights complaint under 42 U.S.C. §  
10 1983.

## **V. INSTRUCTIONS TO PLAINTIFF**

Plaintiff's motion for an extension is granted. Dkt. 3. However, if Plaintiff intends to proceed in this action, he must do so on or before May 12, 2025:

- (1) Cure his initial filing deficiencies by:
    - (a) Filing a complete IFP application, including either (i.) a certified copy of his prison trust account statement or (ii.) filing a sworn declaration detailing his efforts to obtain a copy of his prison trust account statement and attesting to the current balance in that account; or
    - (b) Paying the \$405.00 filing fee.
  - (2) Plaintiff must also show cause why his proposed complaint should not be dismissed as frivolous and for failure to state a claim.

Failure to accomplish both of the above tasks will result in a recommendation this action be dismissed.

Dated this 10th day of April, 2025.

  
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David W. Christel  
United States Magistrate Judge